

# Senate File 497 - Introduced

SENATE FILE 497

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## A BILL FOR

1 An Act relating to cigarettes, tobacco products, and vapor  
2 products, including taxation of such products.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 331.303, subsection 3, Code 2019, is  
2 amended to read as follows:

3 3. Act upon applications for cigarette ~~tax~~, tobacco  
4 product, alternative nicotine product, and vapor product  
5 permits in accordance with chapter 453A.

6 Sec. 2. Section 331.653, subsection 11, Code 2019, is  
7 amended to read as follows:

8 11. Carry out duties relating to the seizure and forfeiture  
9 of cigarettes, tobacco products, and vapor products, vehicles,  
10 and other property used in violation of cigarette, tobacco  
11 product, or vapor product tax laws as provided in section  
12 453A.32.

13 Sec. 3. Section 331.756, subsection 20, Code 2019, is  
14 amended to read as follows:

15 20. Assist, at the request of the director of revenue, in  
16 the enforcement of ~~cigar and~~ cigarette, tobacco product, and  
17 vapor product tax laws as provided in sections 453A.32 and  
18 453A.49.

19 Sec. 4. Section 453A.6, subsection 1, Code 2019, is amended  
20 to read as follows:

21 1. There is imposed, and shall be collected and paid to the  
22 department, a tax on all cigarettes used or otherwise disposed  
23 of in this state for any purpose equal to ~~six and eight-tenths~~  
24 fourteen and three-tenths cents on each cigarette.

25 Sec. 5. Section 453A.6, subsection 8, paragraph a, Code  
26 2019, is amended to read as follows:

27 a. Pay directly to the department, in lieu of the tax under  
28 subsection 1, a tax equal to ~~three and six hundredths~~ four  
29 and four-tenths cents on each cigarette dispensed from such  
30 machine.

31 Sec. 6. Section 453A.15, subsection 4, Code 2019, is amended  
32 to read as follows:

33 4. Every permit holder or other person shall, when requested  
34 by the department, make additional reports as the department  
35 deems necessary and proper and shall at the request of the

1 department furnish full and complete information pertaining to  
 2 any transaction of the permit holder or other person involving  
 3 the purchase or sale or use of cigarettes, alternative nicotine  
 4 products, or vapor products, or purchase of cigarette stamps.  
 5 The director shall specifically prescribe the forms necessary  
 6 and require each retailer to provide on the forms prescribed,  
 7 full and complete information pertaining to any cigarettes,  
 8 alternative nicotine products, or vapor products offered for  
 9 sale or sold by the retailer, including the type and brand of  
 10 the product.

11 Sec. 7. Section 453A.24, subsection 2, Code 2019, is amended  
 12 to read as follows:

13 2. The director may require by rule that common carriers  
 14 or the appropriate persons provide monthly reports to the  
 15 department detailing all information the department deems  
 16 necessary on shipments into and out of Iowa of cigarettes,  
 17 and tobacco products, alternative nicotine products, or vapor  
 18 products, as set forth in this [subchapter I](#) and subchapter II  
 19 of this chapter. The director may require by rule that the  
 20 reports be filed by electronic transmission.

21 Sec. 8. Section 453A.32, subsection 6, Code 2019, is amended  
 22 to read as follows:

23 6. The provisions of [this section](#) applying to cigarettes  
 24 shall also apply to tobacco products, alternative nicotine  
 25 products, and vapor products taxed under subchapter II of this  
 26 chapter.

27 Sec. 9. Section 453A.33, Code 2019, is amended to read as  
 28 follows:

29 **453A.33 Seizure not to affect criminal prosecution.**

30 The seizure, forfeiture, and sale of cigarettes, tobacco  
 31 products, alternative nicotine products, vapor products, and  
 32 other property under the terms and conditions ~~hereinabove set~~  
 33 ~~out~~ pursuant to section 453A.32, shall not constitute any  
 34 defense to the person owning or having control or possession of  
 35 the property from criminal prosecution for any act or omission

1 made or offense committed under [this chapter](#) or from liability  
2 to pay penalties provided by [this chapter](#).

3     Sec. 10. Section 453A.35, subsection 1, paragraph b, Code  
4 2019, is amended to read as follows:

5     **b.** The revenues generated from the tax on cigarettes  
6 pursuant to [section 453A.6, subsection 1](#), and from the tax on  
7 tobacco products as specified in section 453A.43, subsections  
8 1, 2, 3, and 4, and from the tax on vapor products as specified  
9 in section 453A.47D, shall be credited to the health care trust  
10 fund created in [section 453A.35A](#).

11     Sec. 11. Section 453A.35A, subsection 1, Code 2019, is  
12 amended to read as follows:

13     1. A health care trust fund is created in the office of  
14 the treasurer of state. The fund consists of the revenues  
15 generated from the tax on cigarettes pursuant to section  
16 453A.6, subsection 1, and from the tax on tobacco products  
17 as specified in [section 453A.43, subsections 1, 2, 3, and 4](#),  
18 and from the tax on vapor products as specified in section  
19 453A.47D, that are credited to the health care trust fund,  
20 annually, pursuant to [section 453A.35](#). Moneys in the fund  
21 shall be separate from the general fund of the state and shall  
22 not be considered part of the general fund of the state.  
23 However, the fund shall be considered a special account for  
24 the purposes of [section 8.53](#) relating to generally accepted  
25 accounting principles. Moneys in the fund shall be used only  
26 as specified in [this section](#) and shall be appropriated only  
27 for the uses specified. Moneys in the fund are not subject to  
28 section 8.33 and shall not be transferred, used, obligated,  
29 appropriated, or otherwise encumbered, except as provided in  
30 this section. Notwithstanding [section 12C.7, subsection 2](#),  
31 interest or earnings on moneys deposited in the fund shall be  
32 credited to the fund.

33     Sec. 12. Section 453A.39, subsection 1, Code 2019, is  
34 amended to read as follows:

35     1. A manufacturer, distributor, wholesaler, retailer, or

1 distributing agent, or an agent thereof of a manufacturer,  
 2 distributor, wholesaler, retailer, or distributing agent, shall  
 3 not give away cigarettes, ~~or~~ tobacco products, alternative  
 4 nicotine products, or vapor products, at any time in connection  
 5 with the manufacturer's, distributor's, wholesaler's,  
 6 retailer's, or distributing agent's business or for promotion  
 7 of the business or product, except as provided in [subsection 2](#).

8 Sec. 13. Section 453A.42, subsections 1, 2, 8, 9, 10, 12,  
 9 14, and 17, Code 2019, are amended to read as follows:

10 1. "*Business*" means any trade, occupation, activity,  
 11 or enterprise engaged in for the purpose of selling or  
 12 distributing tobacco products, alternative nicotine products,  
 13 or vapor products in this state.

14 2. "*Consumer*" means any person who has title to or  
 15 possession of tobacco products, alternative nicotine products,  
 16 or vapor products in storage, for use or other consumption in  
 17 this state.

18 8. "*Person*" means any individual, firm, association,  
 19 partnership, joint stock company, joint ~~adventure~~ venture,  
 20 corporation, trustee, agency, or receiver, or any legal  
 21 representative of any ~~of the foregoing~~ individual, firm,  
 22 association, partnership, joint stock company, joint venture,  
 23 corporation, trustee, agency, or receiver.

24 9. "*Place of business*" means any place where tobacco  
 25 products are sold or where tobacco products, alternative  
 26 nicotine products, or vapor products are manufactured, stored,  
 27 or kept for the purpose of sale or consumption, including any  
 28 vessel, vehicle, airplane, train, or vending machine; or for  
 29 a business within or without the state that conducts delivery  
 30 sales, any place where alternative nicotine products or vapor  
 31 products are sold or where alternative nicotine products or  
 32 vapor products are kept for the purpose of sale, including  
 33 delivery sales.

34 10. "*Retail outlet*" means each place of business from which  
 35 tobacco products, alternative nicotine products, or vapor

1 products are sold to consumers.

2 12. "*Sale*" means any transfer, exchange, or barter, in any  
3 manner or by any means whatsoever, for a consideration, and  
4 includes and means all sales made by any person. It includes  
5 a gift by a person engaged in the business of selling tobacco  
6 products, alternative nicotine products, or vapor products  
7 for advertising, as a means of evading the provisions of this  
8 subchapter, or for any other purposes ~~whatsoever~~.

9 14. "*Storage*" means any keeping or retention of tobacco  
10 products, alternative nicotine products, or vapor products for  
11 use or consumption in this state.

12 17. "*Use*" means the exercise of any right or power  
13 incidental to the ownership of tobacco products, alternative  
14 nicotine products, or vapor products.

15 Sec. 14. Section 453A.43, Code 2019, is amended to read as  
16 follows:

17 **453A.43 Tax on tobacco products.**

18 1. *a.* A tax is imposed upon all tobacco products in this  
19 state and upon any person engaged in business as a distributor  
20 of tobacco products, at the rate of ~~twenty-two~~ seventy-five  
21 percent of the wholesale sales price of the tobacco products,  
22 ~~except little cigars and snuff as defined in section 453A.42.~~  
23 Notwithstanding the rate of the tax imposed under this  
24 paragraph "a" on tobacco products, little cigars shall be  
25 subject to the tax as specified pursuant to paragraph "c", and  
26 snuff shall be subject to the tax as specified pursuant to  
27 paragraph "d".

28 ~~*b.* In addition to the tax imposed under paragraph "a", a~~  
29 ~~tax is imposed upon all tobacco products in this state and upon~~  
30 ~~any person engaged in business as a distributor of tobacco~~  
31 ~~products, at the rate of twenty-eight percent of the wholesale~~  
32 ~~sales price of the tobacco products, except little cigars and~~  
33 ~~snuff as defined in section 453A.42.~~

34 ~~*c.*~~ *b.* Notwithstanding the rate of tax imposed pursuant  
35 to paragraphs paragraph "a" and "b", if the tobacco product

1 is a cigar, the total amount of the tax imposed pursuant to  
 2 ~~paragraphs paragraph "a" and "b" combined~~ shall not exceed fifty  
 3 ~~cents~~ one dollar per cigar.

4 ~~d.~~ c. Little cigars shall be subject to the same rate of  
 5 tax imposed upon cigarettes in section 453A.6, payable at the  
 6 time and in the manner provided in section 453A.6; and stamps  
 7 shall be affixed as provided in subchapter I of this chapter.

8 d. Snuff shall be subject to the tax as provided in  
 9 subsections 3 and 4.

10 e. The taxes on tobacco products, ~~excluding little cigars~~  
 11 ~~and snuff~~, shall be imposed at the time the distributor does  
 12 any of the following:

13 (1) Brings, or causes to be brought, into this state from  
 14 outside the state tobacco products for sale.

15 (2) Makes, manufactures, or fabricates tobacco products in  
 16 this state for sale in this state.

17 (3) Ships or transports tobacco products to retailers in  
 18 this state, to be sold by those retailers.

19 2. a. A tax is imposed upon the use or storage by consumers  
 20 of tobacco products in this state, and upon the consumers, at  
 21 the rate of ~~twenty-two~~ seventy-five percent of the cost of the  
 22 tobacco products.

23 ~~b.~~ ~~In addition to the tax imposed in paragraph "a", a tax~~  
 24 ~~is imposed upon the use or storage by consumers of tobacco~~  
 25 ~~products in this state, and upon the consumers, at a rate of~~  
 26 ~~twenty-eight percent of the cost of the tobacco products.~~

27 ~~c.~~ ~~Notwithstanding the rate of tax imposed pursuant to~~  
 28 ~~paragraphs "a" and "b", if the tobacco product is a cigar, the~~  
 29 ~~total amount of the tax imposed pursuant to paragraphs "a" and~~  
 30 ~~"b" combined shall not exceed fifty cents per cigar.~~

31 ~~d.~~ b. The taxes imposed by this subsection shall not apply  
 32 if the taxes imposed by subsection 1 on the tobacco products  
 33 have been paid.

34 ~~e.~~ c. The taxes imposed under this subsection shall not  
 35 apply to the use or storage of tobacco products in quantities

1 of:

2 (1) Less than twenty-five cigars.

3 (2) Less than one pound smoking or chewing tobacco or other  
4 tobacco products not specifically mentioned herein in this  
5 chapter, in the possession of any one consumer.

6 3. A tax is imposed upon all snuff in this state and upon  
7 any person engaged in business as a distributor of snuff at  
8 the rate of ~~one dollar and nineteen cents per ounce, with a~~  
9 ~~proportionate tax at the same rate on all fractional parts~~  
10 ~~of an ounce of snuff~~ seventy-five percent of the wholesale  
11 sales price. The tax shall be computed based on the net weight  
12 listed by the manufacturer. The tax on snuff shall be imposed  
13 at the time the distributor does any of the following:

14 a. Brings or causes to be brought into this state from  
15 outside the state, snuff for sale.

16 b. Makes, manufactures, or fabricates snuff in this state  
17 for sale in this state.

18 c. Ships or transports snuff to retailers in this state, to  
19 be sold by those retailers.

20 4. a. A tax is imposed upon the use or storage by consumers  
21 of snuff in this state, and upon the consumers, at the rate of  
22 ~~one dollar and nineteen cents per ounce with a proportionate~~  
23 ~~tax at the same rate on all fractional parts of an ounce of~~  
24 ~~snuff~~ seventy-five percent of the wholesale sales price. The  
25 tax shall be computed based on the net weight as listed by the  
26 manufacturer.

27 b. The tax imposed by [this subsection](#) shall not apply if the  
28 tax imposed by [subsection 3](#) on snuff has been paid.

29 c. The tax shall not apply to the use or storage of snuff in  
30 quantities of less than ten ounces.

31 5. Any tobacco product with respect to which a tax has once  
32 been imposed under [this subchapter](#) shall not again be subject  
33 to tax under [this subchapter](#), except as provided in section  
34 453A.40.

35 6. The tax imposed by [this section](#) shall not apply with



1 respect to any tobacco product which under the Constitution  
2 and laws of the United States may not be made the subject of  
3 taxation by this state.

4 7. The tax imposed by **this section** shall be in addition to  
5 all other occupation or privilege taxes or license fees ~~now or~~  
6 ~~hereafter~~ imposed by any city or county.

7 8. All excise taxes collected under **this chapter** by a  
8 distributor or any individual are deemed to be held in trust  
9 for the state of Iowa.

10 Sec. 15. Section 453A.45, subsection 3, Code 2019, is  
11 amended to read as follows:

12 3. Every retailer and subjobber shall procure itemized  
13 invoices of all tobacco products, alternative nicotine  
14 products, and vapor products purchased. The invoices shall  
15 show the name and address of the seller and the date of  
16 purchase. The retailer and subjobber shall preserve a legible  
17 copy of each invoice for three years from the date of purchase.  
18 Invoices shall be available for inspection by the director or  
19 the director's authorized agents or employees at the retailer's  
20 or subjobber's place of business.

21 Sec. 16. Section 453A.47A, subsection 10, paragraph b, Code  
22 2019, is amended to read as follows:

23 b. Every retailer shall, when requested by the department,  
24 make additional reports as the department deems necessary and  
25 proper and shall at the request of the department furnish  
26 full and complete information pertaining to any transaction  
27 of the retailer involving the purchase or sale or use of  
28 tobacco, tobacco products, alternative nicotine products, or  
29 vapor products. The director shall specifically prescribe the  
30 forms necessary and require each retailer to provide on the  
31 forms prescribed full and complete information pertaining to  
32 any tobacco, tobacco products, alternative nicotine products,  
33 or vapor products offered for sale or sold by the retailer,  
34 including the type and brand of the product.

35 Sec. 17. NEW SECTION. 453A.47D Tax on vapor products.

1     1. A tax is imposed upon all vapor products in this state  
2 at the rate of five dollars per cartridge or other container  
3 of a solution or other substance, which may or may not contain  
4 nicotine, that is intended to be used with or in a vapor  
5 product.

6     2. The tax on vapor products shall be imposed at the point  
7 of retail sale to consumers in this state. The amount of the  
8 tax shall be added to the selling price of each cartridge or  
9 other container sold in this state and shall be collected from  
10 the purchaser so that the ultimate consumer bears the burden  
11 of the tax.

12     Sec. 18. Section 453A.48, subsection 3, Code 2019, is  
13 amended to read as follows:

14     3. The director may exchange information with the officers  
15 and agencies of other states administering laws relating to the  
16 taxation of tobacco products and vapor products.

17     Sec. 19. Section 453A.51, Code 2019, is amended to read as  
18 follows:

19     **453A.51 Assessment of cost of audit.**

20     The department may employ auditors or other persons to  
21 audit and examine the books and records of a permit holder or  
22 other person dealing in tobacco products or vapor products  
23 to ascertain whether the permit holder or other person has  
24 paid the amount of the taxes required to be paid by the permit  
25 holder or other person under the provisions of **this chapter**.  
26 If the taxes have not been paid, as required, the department  
27 shall assess against the permit holder or other person, as  
28 additional penalty, the reasonable expenses and costs of the  
29 investigation and audit.

30                                   EXPLANATION

31             The inclusion of this explanation does not constitute agreement with  
32             the explanation's substance by the members of the general assembly.

33     This bill relates to the taxes on cigarettes, tobacco  
34 products, and vapor products.

35     The bill increases the tax imposed on cigarettes from six and

1 eight-tenths cents to fourteen and three-tenths cents on each  
2 cigarette, or from \$1.36 to \$2.86 per pack of 20 cigarettes.

3 The bill increases the tax on cigarettes assembled using  
4 loose tobacco products that are inserted into a vending machine  
5 from which assembled cigarettes are dispensed from three and  
6 six-hundredths cents to four and four-tenths cents, which  
7 is equivalent, based on the weight of tobacco used for each  
8 cigarette, to the tax on packaged cigarettes.

9 The bill increases the tax on tobacco products from 50  
10 percent of the wholesale sales price to 75 percent of the  
11 wholesale sales price. The bill amends the cap on the tax for  
12 cigars from 50 cents per cigar to \$1 per cigar.

13 The bill imposes a tax on vapor products in the state at  
14 the rate of \$5 per cartridge or other container of a solution  
15 or substance, which may or may not contain nicotine, that is  
16 intended to be used with or in a vapor product.

17 The tax is imposed at the point of retail sale to cartridges  
18 or other containers in the state so that the ultimate consumer  
19 bears the burden of the tax.

20 The bill make other conforming changes.